

Serial No. 10/025,230, filed 12/19/2001

REMARKS

Claims 1-11 and 13-19 are presently pending in the application. Claims 1, 13, and 15 are in independent form. Claims 1-11 were indicated as allowable over the art, but the Examiner has provided a new rejection in his August 2004 Office Action.

The Drawings

The Figures have been objected to by the Examiner. Applicant reminds the Examiner that the Figures are intended to be a schematic depiction of the invention. (see paragraphs 9-11) Please note that paragraph 15 states that the actuators are generally parallel so that only one actuator would be visible in a side view.

The Examiner argues that Figures 1 and 4 are inconsistent with Figures 2 and 3 relative to the use of elements 14 and 16. As suggested, the Applicant has amended the previously amended Figures 2 and 3 so that they are consistent with Figures 1 and 4. Also, the Figures have been amended to add an arrow to the end of the lead lines from numerals 14 and 16. The arrowed lines now generally indicate upper and lower control arms. However, if the Examiner disagrees the Applicant can add a prime to differentiate the numbering.

Numerals 18 and 20 are used twice in Figure 1. This is intentional since each control arm has first and second portions. Applicant believes that there is no inconsistency in numbering. Applicant was unable to find anything in the MPEP or Rules prohibiting such a numbering practice. Accordingly, the Applicant believes no correction is necessary in this regard. Numerals 18 and 20 have also been added to Figures 2-4 to clarify the relationship of the components.

§112, ¶2 rejection

The "in connection with" language has been amended to "provided by." Applicant believes that this amendment fully addresses the Examiner's rejection. According to claim 1, the actuator can be part of a separate component considered to be a control arm or provide the control arm in its entirety. Claim 11 further defines the control arm/actuator relationship by specifying that the actuator is "supported on" the control arm.

Applicant is not sure what the Examiner intended by the statement that it is "impossible to have the actuator(s) move the connection point." Applicant believes that the amendments to claim 1 and the drawings have addressed any of the Examiner's confusion.

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§103 rejections

Claims 1-5, 8, 9, and 11 were rejected over Japanese abstract 62125907 ("Abstract") in view of WO91/14609 ("609"). Under *In re Gavin*, it is inappropriate for the Examiner to make a combination using an untranslated reference. It is the Examiner's burden to establish a prima facie case based upon the teachings of the references as a whole. The Examiner cannot do so without a translation of both references. Accordingly, the rejection must be withdrawn or a translation provided.

Nonetheless, the Examiner's stated motivation is insufficient. The Examiner argues that one of ordinary skill would modify the Abstract with '609 to provide a control arm "for the added stability." The Abstract is concerned with reducing steering force. To address this, the Abstract relies upon the input of actuator at low speed to assist in the reduction of steering effort. '609 is directed to automatic correction of camber on bends of roads, which has nothing to do with the reduction of steering effort. Accordingly, there is no motivation to modify the Abstract with '609 based upon the limited teachings evident from the abstract of these references.

Furthermore, the Examiner's stated motivation of "added stability" is unsubstantiated. There is nothing in the references to support this. If the Examiner is taking Official Notice of this, then Applicant requests the Examiner to provide support.

Claims 6 and 7 were rejected over Japanese abstract 62125907 ("Abstract") in view of WO91/14609 ("609") in further view of Mackle. Claims 6 and 7 respectively require a brake and yaw sensor. As mentioned above, the Abstract is concerned with reducing steering force at low speed and '609 is directed to automatic correction of camber on bends of roads. There is no motivation to modify either reference to use the brake signal or yaw rate taught in Mackle. The Examiner argues the motivation would be "to achieve enhanced vehicle suspension performance." However, neither the Abstract or '609 is concerned with this and their goals are not further enhanced or benefited by the addition of the brake signal or yaw rate of Mackle. Accordingly, the combination is improper.

Claim 10 is rejected over Japanese abstract 62125907 ("Abstract") in view of WO91/14609 ("609") in further view of Giltinan. The Abstract and '609 are silent as to the type of joint. There

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are number types of joints in the art. However, the Examiner argues that the motivation to modify the Abstract and '609 would be "to provide a connection with a greater degree of motion to allow for increased adjustability." The Examiner is clearly using hindsight to make the combination. The Abstract and '609 do not even disclose the type of joint and the Examiner somehow assumes that a ball joint would provide a greater motion and increased adjustability—as compared to what? Further, there are alternative joints. What teachings are there in the references that would motivate one to specifically use a ball joint? The Examiner has not established a prima facie case of obviousness, and the rejection must be withdrawn.

The Examiner has maintained the prior rejection of claims 13-19 over Goldberg in view of Mackle. Applicant appreciates the clarification of the Examiner's arguments. Claims 13 and 15 are respectively directed to detecting vehicle yaw and a braking signal. These features are not shown in Goldberg. The Examiner argues that one of ordinary skill in the art would modify Goldberg with the teachings of Mackle with respect to these features "to achieve enhanced dynamic vehicle suspension performance."

Goldberg already discloses a system that adjusts camber, toe, track, wheel height and caster. There is more than one way to achieve the adjustments, and apparently Goldberg uses a different approach than Mackle. How does Mackle enhance what Goldberg already accomplishes? Goldberg already teaches a way of making these adjustments without the need of a brake signal or yaw rate. The Examiner makes a conclusory statement that using the brake signal and yaw rate of Mackle would "achieve enhanced dynamic vehicle suspension performance" but fails to provide any teaching in the references as to why this would be true. The Examiner appears to be picking the missing element in Goldberg from Mackle without any teaching that would motivate one of ordinary skill to do so.

Goldberg teaches a system that does not need a yaw sensor or braking signal. Instead, for example, Goldberg uses wheel height sensors and wheel speed and angle sensors. Goldberg achieves vehicle stability in a different way and without the need of the yaw and braking information of Mackle. The Examiner argues on page 10, that he "has simply pointed out an actively adjustable suspension that could also be adjusted by sensing vehicle yaw and by using a brake sensor." "Could" does not establish a motivation to modify Goldberg, especially, when

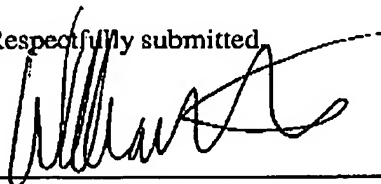
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Goldberg already provides all the adjustability that Mackle offers. On page 10, the Examiner has agreed that the yaw detection of Mackle is duplicative and provides no benefit. The Examiner has, then, admitted that there is no motivation to modify Goldberg.

For the reasons set forth above, claims 13-19 are allowable over the art. Applicant respectfully solicits allowance of these claims.

The Commissioner is authorized to charge \$120.00 for a one-month extension time and any additional fees or credits to Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds.

Respectfully submitted,



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